

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 800

FINAL READING

Introduced by Ashford, 20; Nordquist, 7; Council, 11; Mello, 5; Cook, 13.

Read first time January 08, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to juvenile justice; to amend sections  
2 24-313, 25-2701, 25-2728, 28-416, 29-1816, 29-2258,  
3 29-2269, 43-246, 43-248, 43-253, 43-254, 43-254.01,  
4 43-256, 43-258, 43-272.01, 43-278, 43-285, 43-2,106.01,  
5 43-2,129, 43-415, 43-2404.02, 60-4,108, 79-209, and  
6 79-527, Reissue Revised Statutes of Nebraska, sections  
7 43-245 and 43-250, Revised Statutes Supplement, 2009,  
8 and section 29-2262.07, Reissue Revised Statutes of  
9 Nebraska, as amended by section 15, Legislative Bill 3,  
10 One Hundred First Legislature, First Special Session,  
11 2009; to eliminate juvenile review panels; to provide  
12 for sealing of juvenile records, additional penalties

1 for drug-related offenses by minors, sanctions for  
2 probation violations or potential violations, a transfer  
3 and distribution of funds, and a juvenile offender  
4 civil citation pilot program; to change arraignment,  
5 temporary custody, evaluation, detention, and placement  
6 provisions regarding juveniles; to provide for telephonic  
7 and videoconference communications and hearings under the  
8 Nebraska Juvenile Code; to provide for the impoundment  
9 of or prohibit obtaining a juvenile's operator's license  
10 or permit as prescribed; to provide for sanctions on  
11 parents or guardians for excessive absenteeism; to  
12 provide for expedited appeals from the juvenile court;  
13 to change provisions relating to the County Juvenile  
14 Services Aid Program, school truancy management and  
15 enforcement, and school reporting provisions; to create  
16 and provide duties for the Truancy Intervention Task  
17 Force; to change and eliminate provisions relating to  
18 setting aside adjudications; to harmonize provisions; to  
19 provide a duty for the Revisor of Statutes; to repeal  
20 the original sections; and to outright repeal sections  
21 43-287.01, 43-287.02, 43-287.03, 43-287.04, 43-287.05,  
22 43-287.06, 43-2,102, 43-2,103, 43-2,104, and 43-2,105,  
23 Reissue Revised Statutes of Nebraska.

24 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 24-313, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           24-313 The district court may by rule compel an inferior  
4 court or board to allow an appeal or to make or amend records  
5 according to law either by correcting an evident mistake or  
6 supplying an evident omission. This section shall not apply to  
7 ~~cases in which a review by a juvenile review panel may be requested~~  
8 ~~under sections 43-287.01 to 43-287.06 or~~ if the Administrative  
9 Procedure Act otherwise provides.

10          Sec. 2. Section 25-2701, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12          25-2701 (1) All provisions in the codes of criminal  
13 and civil procedure governing actions and proceedings in the  
14 district court not in conflict with statutes specifically governing  
15 procedure in county courts and related to matters for which no  
16 specific provisions have been made for county courts shall govern  
17 and apply to all actions and proceedings in the county court.

18          (2) County courts may seal records of a person as  
19 provided under sections 26 to 30 of this act.

20          Sec. 3. Section 25-2728, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22          25-2728 (1) Any party in a civil case and any defendant  
23 in a criminal case may appeal from the final judgment or final  
24 order of the county court to the district court of the county where  
25 the county court is located. In a criminal case, a prosecuting

1 attorney may obtain review by exception proceedings pursuant to  
2 sections 29-2317 to 29-2319.

3 (2) Sections 25-2728 to 25-2738 shall not apply to:

4 (a) Appeals in eminent domain proceedings as provided in  
5 sections 76-715 to 76-723;

6 (b) Appeals in proceedings in the county court sitting as  
7 a juvenile court as provided in sections ~~43-287.01 to 43-287.06,~~  
8 ~~43-2,106,~~ and 43-2,106.01;

9 (c) Appeals in matters arising under the Nebraska Probate  
10 Code as provided in section 30-1601;

11 (d) Appeals in matters arising under the Nebraska Uniform  
12 Trust Code;

13 (e) Appeals in adoption proceedings as provided in  
14 section 43-112;

15 (f) Appeals in inheritance tax proceedings as provided in  
16 section 77-2023; and

17 (g) Appeals in domestic relations matters as provided in  
18 section 25-2739.

19 Sec. 4. Section 28-416, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 28-416 (1) Except as authorized by the Uniform Controlled  
22 Substances Act, it shall be unlawful for any person knowingly or  
23 intentionally: (a) To manufacture, distribute, deliver, dispense,  
24 or possess with intent to manufacture, distribute, deliver, or  
25 dispense a controlled substance; or (b) to create, distribute,

1 or possess with intent to distribute a counterfeit controlled  
2 substance.

3 (2) Except as provided in subsections (4), (5), (7), (8),  
4 (9), and (10) of this section, any person who violates subsection  
5 (1) of this section with respect to: (a) A controlled substance  
6 classified in Schedule I, II, or III of section 28-405 which is an  
7 exceptionally hazardous drug shall be guilty of a Class II felony;  
8 (b) any other controlled substance classified in Schedule I, II, or  
9 III of section 28-405 shall be guilty of a Class III felony; or (c)  
10 a controlled substance classified in Schedule IV or V of section  
11 28-405 shall be guilty of a Class IIIA felony.

12 (3) A person knowingly or intentionally possessing a  
13 controlled substance, except marijuana, unless such substance was  
14 obtained directly or pursuant to a medical order issued by a  
15 practitioner authorized to prescribe while acting in the course of  
16 his or her professional practice, or except as otherwise authorized  
17 by the act, shall be guilty of a Class IV felony.

18 (4) (a) Except as authorized by the Uniform Controlled  
19 Substances Act, any person eighteen years of age or older who  
20 knowingly or intentionally manufactures, distributes, delivers,  
21 dispenses, or possesses with intent to manufacture, distribute,  
22 deliver, or dispense a controlled substance or a counterfeit  
23 controlled substance (i) to a person under the age of eighteen  
24 years, (ii) in, on, or within one thousand feet of the real  
25 property comprising a public or private elementary, vocational, or

1 secondary school, a community college, a public or private college,  
2 junior college, or university, or a playground, or (iii) within one  
3 hundred feet of a public or private youth center, public swimming  
4 pool, or video arcade facility shall be punished by the next higher  
5 penalty classification than the penalty prescribed in subsection  
6 (2), (7), (8), (9), or (10) of this section, depending upon the  
7 controlled substance involved, for the first violation and for a  
8 second or subsequent violation shall be punished by the next higher  
9 penalty classification than that prescribed for a first violation  
10 of this subsection, but in no event shall such person be punished  
11 by a penalty greater than a Class IB felony.

12 (b) For purposes of this subsection:

13 (i) Playground shall mean any outdoor facility, including  
14 any parking lot appurtenant to the facility, intended for  
15 recreation, open to the public, and with any portion containing  
16 three or more apparatus intended for the recreation of children,  
17 including sliding boards, swingsets, and teeterboards;

18 (ii) Video arcade facility shall mean any facility  
19 legally accessible to persons under eighteen years of age, intended  
20 primarily for the use of pinball and video machines for amusement,  
21 and containing a minimum of ten pinball or video machines; and

22 (iii) Youth center shall mean any recreational facility  
23 or gymnasium, including any parking lot appurtenant to the facility  
24 or gymnasium, intended primarily for use by persons under eighteen  
25 years of age which regularly provides athletic, civic, or cultural

1 activities.

2 (5) (a) Except as authorized by the Uniform Controlled  
3 Substances Act, it shall be unlawful for any person eighteen  
4 years of age or older to knowingly and intentionally employ, hire,  
5 use, cause, persuade, coax, induce, entice, seduce, or coerce any  
6 person under the age of eighteen years to manufacture, transport,  
7 distribute, carry, deliver, dispense, prepare for delivery, offer  
8 for delivery, or possess with intent to do the same a controlled  
9 substance or a counterfeit controlled substance.

10 (b) Except as authorized by the Uniform Controlled  
11 Substances Act, it shall be unlawful for any person eighteen years  
12 of age or older to knowingly and intentionally employ, hire, use,  
13 cause, persuade, coax, induce, entice, seduce, or coerce any person  
14 under the age of eighteen years to aid and abet any person in  
15 the manufacture, transportation, distribution, carrying, delivery,  
16 dispensing, preparation for delivery, offering for delivery, or  
17 possession with intent to do the same of a controlled substance or  
18 a counterfeit controlled substance.

19 (c) Any person who violates subdivision (a) or (b) of  
20 this subsection shall be punished by the next higher penalty  
21 classification than the penalty prescribed in subsection (2), (7),  
22 (8), (9), or (10) of this section, depending upon the controlled  
23 substance involved, for the first violation and for a second or  
24 subsequent violation shall be punished by the next higher penalty  
25 classification than that prescribed for a first violation of this

1 subsection, but in no event shall such person be punished by a  
2 penalty greater than a Class IB felony.

3 (6) It shall not be a defense to prosecution for  
4 violation of subsection (4) or (5) of this section that the  
5 defendant did not know the age of the person through whom the  
6 defendant violated such subsection.

7 (7) Any person who violates subsection (1) of this  
8 section with respect to cocaine or any mixture or substance  
9 containing a detectable amount of cocaine in a quantity of:

10 (a) One hundred forty grams or more shall be guilty of a  
11 Class IB felony;

12 (b) At least twenty-eight grams but less than one hundred  
13 forty grams shall be guilty of a Class IC felony; or

14 (c) At least ten grams but less than twenty-eight grams  
15 shall be guilty of a Class ID felony.

16 (8) Any person who violates subsection (1) of this  
17 section with respect to base cocaine (crack) or any mixture or  
18 substance containing a detectable amount of base cocaine in a  
19 quantity of:

20 (a) One hundred forty grams or more shall be guilty of a  
21 Class IB felony;

22 (b) At least twenty-eight grams but less than one hundred  
23 forty grams shall be guilty of a Class IC felony; or

24 (c) At least ten grams but less than twenty-eight grams  
25 shall be guilty of a Class ID felony.

1           (9) Any person who violates subsection (1) of this  
2 section with respect to heroin or any mixture or substance  
3 containing a detectable amount of heroin in a quantity of:

4           (a) One hundred forty grams or more shall be guilty of a  
5 Class IB felony;

6           (b) At least twenty-eight grams but less than one hundred  
7 forty grams shall be guilty of a Class IC felony; or

8           (c) At least ten grams but less than twenty-eight grams  
9 shall be guilty of a Class ID felony.

10          (10) Any person who violates subsection (1) of this  
11 section with respect to amphetamine, its salts, optical isomers,  
12 and salts of its isomers, or with respect to methamphetamine, its  
13 salts, optical isomers, and salts of its isomers, in a quantity of:

14          (a) One hundred forty grams or more shall be guilty of a  
15 Class IB felony;

16          (b) At least twenty-eight grams but less than one hundred  
17 forty grams shall be guilty of a Class IC felony; or

18          (c) At least ten grams but less than twenty-eight grams  
19 shall be guilty of a Class ID felony.

20          (11) Any person knowingly or intentionally possessing  
21 marijuana weighing more than one ounce but not more than one pound  
22 shall be guilty of a Class III misdemeanor.

23          (12) Any person knowingly or intentionally possessing  
24 marijuana weighing more than one pound shall be guilty of a Class  
25 IV felony.

1           (13) Any person knowingly or intentionally possessing  
2 marijuana weighing one ounce or less shall:

3           (a) For the first offense, be guilty of an infraction,  
4 receive a citation, be fined three hundred dollars, and be assigned  
5 to attend a course as prescribed in section 29-433 if the judge  
6 determines that attending such course is in the best interest of  
7 the individual defendant;

8           (b) For the second offense, be guilty of a Class IV  
9 misdemeanor, receive a citation, and be fined four hundred dollars  
10 and may be imprisoned not to exceed five days; and

11           (c) For the third and all subsequent offenses, be guilty  
12 of a Class IIIA misdemeanor, receive a citation, be fined five  
13 hundred dollars, and be imprisoned not to exceed seven days.

14           (14) Any person convicted of violating this section,  
15 if placed on probation, shall, as a condition of probation,  
16 satisfactorily attend and complete appropriate treatment and  
17 counseling on drug abuse provided by a program authorized under  
18 the Nebraska Behavioral Health Services Act or other licensed drug  
19 treatment facility.

20           (15) Any person convicted of violating this section, if  
21 sentenced to the Department of Correctional Services, shall attend  
22 appropriate treatment and counseling on drug abuse.

23           (16) Any person knowingly or intentionally possessing a  
24 firearm while in violation of subsection (1) of this section shall  
25 be punished by the next higher penalty classification than the

1 penalty prescribed in subsection (2), (7), (8), (9), or (10) of  
2 this section, but in no event shall such person be punished by a  
3 penalty greater than a Class IB felony.

4 (17) A person knowingly or intentionally in possession  
5 of money used or intended to be used to facilitate a violation  
6 of subsection (1) of this section shall be guilty of a Class IV  
7 felony.

8 (18) In addition to the penalties provided in this  
9 section:

10 (a) If the person convicted or adjudicated of violating  
11 this section is eighteen years of age or younger and has one or  
12 more licenses or permits issued under the Motor Vehicle Operator's  
13 License Act:

14 (i) For the first offense, the court may, as a part of  
15 the judgment of conviction or adjudication, (A) impound any such  
16 licenses or permits for thirty days and (B) require such person to  
17 attend a drug education class;

18 (ii) For a second offense, the court may, as a part of  
19 the judgment of conviction or adjudication, (A) impound any such  
20 licenses or permits for ninety days and (B) require such person  
21 to complete no fewer than twenty and no more than forty hours of  
22 community service and to attend a drug education class; and

23 (iii) For a third or subsequent offense, the court may,  
24 as a part of the judgment of conviction or adjudication, (A)  
25 impound any such licenses or permits for twelve months and (B)

1 require such person to complete no fewer than sixty hours of  
2 community service, to attend a drug education class, and to submit  
3 to a drug assessment by a licensed alcohol and drug counselor; and

4 (b) If the person convicted or adjudicated of violating  
5 this section is eighteen years of age or younger and does not  
6 have a permit or license issued under the Motor Vehicle Operator's  
7 License Act:

8 (i) For the first offense, the court may, as part of the  
9 judgment of conviction or adjudication, (A) prohibit such person  
10 from obtaining any permit or any license pursuant to the act for  
11 which such person would otherwise be eligible until thirty days  
12 after the date of such order and (B) require such person to attend  
13 a drug education class;

14 (ii) For a second offense, the court may, as part of the  
15 judgment of conviction or adjudication, (A) prohibit such person  
16 from obtaining any permit or any license pursuant to the act for  
17 which such person would otherwise be eligible until ninety days  
18 after the date of such order and (B) require such person to  
19 complete no fewer than twenty hours and no more than forty hours of  
20 community service and to attend a drug education class; and

21 (iii) For a third or subsequent offense, the court may,  
22 as part of the judgment of conviction or adjudication, (A) prohibit  
23 such person from obtaining any permit or any license pursuant  
24 to the act for which such person would otherwise be eligible  
25 until twelve months after the date of such order and (B) require

1 such person to complete no fewer than sixty hours of community  
2 service, to attend a drug education class, and to submit to a drug  
3 assessment by a licensed alcohol and drug counselor.

4 A copy of an abstract of the court's conviction or  
5 adjudication shall be transmitted to the Director of Motor Vehicles  
6 pursuant to sections 60-497.01 to 60-497.04.

7 Sec. 5. Section 29-1816, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 29-1816 (1) The accused shall be arraigned by reading to  
10 him or her the indictment or information, unless the reading is  
11 waived by the accused when the nature of the charge is made known  
12 to him or her. The accused shall then be asked whether he or she  
13 is guilty or not guilty of the offense charged. If the accused  
14 appears in person and by counsel and goes to trial before a jury  
15 regularly impaneled and sworn, he or she shall be deemed to have  
16 waived arraignment and a plea of not guilty shall be deemed to have  
17 been made.

18 (2)(a) At the time of the arraignment the court shall  
19 advise the ~~defendant,~~ accused, if he or she was less than eighteen  
20 years of age at the time of the commitment of the alleged crime,  
21 that he or she may move the county or district court at any time  
22 not later than thirty days after arraignment, unless otherwise  
23 permitted by the court for good cause shown, to waive jurisdiction  
24 in such case to the juvenile court for further proceedings under  
25 the Nebraska Juvenile Code. The court shall schedule a hearing on

1 such motion within fifteen days. The customary rules of evidence  
2 shall not be followed at such hearing. The county attorney or  
3 city attorney shall present the evidence and reasons why such  
4 case should be retained, the ~~defendant~~ accused shall present the  
5 evidence and reasons why the case should be transferred, and both  
6 sides shall consider the criteria set forth in section 43-276.  
7 After considering all the evidence and reasons presented by both  
8 parties, pursuant to section 43-276, the case shall be transferred  
9 unless a sound basis exists for retaining the case.

10 (b) In deciding such motion the court shall consider,  
11 among other matters, the matters set forth in section 43-276  
12 for consideration by the county attorney or city attorney when  
13 determining the type of case to file.

14 (c) The court shall set forth findings for the reason for  
15 its decision, which shall not be a final order for the purpose of  
16 enabling an appeal. If the court determines that the ~~child~~ accused  
17 should be transferred to the juvenile court, the complete file in  
18 the county or district court shall be transferred to the juvenile  
19 court and the complaint, indictment, or information may be used  
20 in place of a petition therein. The court making a transfer shall  
21 order the ~~minor~~ accused to be taken forthwith to the juvenile court  
22 and designate where ~~the minor~~ he or she shall be kept pending  
23 determination by the juvenile court. The juvenile court shall then  
24 proceed as provided in the Nebraska Juvenile Code.

25 Sec. 6. Section 29-2258, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 29-2258 A district probation officer shall:

3 (1) Conduct juvenile intake interviews and investigations  
4 in accordance with section 43-253 utilizing a standardized juvenile  
5 detention screening instrument described in section 43-260.01;

6 (2) Make presentence and other investigations, as may be  
7 required by law or directed by a court in which he or she is  
8 serving;

9 (3) Supervise probationers in accordance with the rules  
10 and regulations of the office and the directions of the sentencing  
11 court;

12 (4) Advise the sentencing court, in accordance with  
13 the Nebraska Probation Administration Act and such rules and  
14 regulations of the office, of violations of the conditions of  
15 probation by individual probationers;

16 (5) Advise the sentencing court, in accordance with the  
17 rules and regulations of the office and the direction of the court,  
18 when the situation of a probationer may require a modification of  
19 the conditions of probation or when a probationer's adjustment is  
20 such as to warrant termination of probation;

21 (6) Provide each probationer with a statement of the  
22 period and conditions of his or her probation;

23 (7) Whenever necessary, exercise the power of arrest or  
24 temporary custody as provided in section 29-2266 or section 7 of  
25 this act;

1           (8) Establish procedures for the direction and guidance  
2 of deputy probation officers under his or her jurisdiction and  
3 advise such officers in regard to the most effective performance of  
4 their duties;

5           (9) Supervise and evaluate deputy probation officers  
6 under his or her jurisdiction;

7           (10) Delegate such duties and responsibilities to a  
8 deputy probation officer as he or she deems appropriate;

9           (11) Make such reports as required by the administrator,  
10 the judges of the probation district in which he or she serves, or  
11 the Supreme Court;

12           (12) Keep accurate and complete accounts of all money or  
13 property collected or received from probationers and give receipts  
14 therefor;

15           (13) Cooperate fully with and render all reasonable  
16 assistance to other probation officers;

17           (14) In counties with a population of less than  
18 twenty-five thousand people, participate in pretrial diversion  
19 programs established pursuant to sections 29-3601 to 29-3604  
20 and juvenile pretrial diversion programs established pursuant  
21 to sections 43-260.02 to 43-260.07 as requested by judges of  
22 the probation district in which he or she serves, except that  
23 participation in such programs shall not require appointment of  
24 additional personnel and shall be consistent with the probation  
25 officer's current caseload;

1           (15) Participate, at the direction of the probation  
2 administrator pursuant to an interlocal agreement which meets the  
3 requirements of section 29-2255, in non-probation-based programs  
4 and services;

5           (16) Perform such other duties not inconsistent with the  
6 Nebraska Probation Administration Act or the rules and regulations  
7 of the office as a court may from time to time direct; and

8           (17) Exercise all powers and perform all duties necessary  
9 and proper to carry out his or her responsibilities.

10           Sec. 7. (1) For purposes of this section:

11           (a) Administrative sanction means additional probation  
12 requirements imposed upon a juvenile subject to the supervision  
13 of a probation officer by his or her probation officer, with the  
14 full knowledge and consent of such juvenile and such juvenile's  
15 parents or guardian, designed to hold such juvenile accountable  
16 for substance abuse or noncriminal violations of conditions of  
17 probation, including, but not limited to:

18           (i) Counseling or reprimand by his or her probation  
19 officer;

20           (ii) Increased supervision contact requirements;

21           (iii) Increased substance abuse testing;

22           (iv) Referral for substance abuse or mental health  
23 evaluation or other specialized assessment, counseling, or  
24 treatment;

25           (v) Modification of a designated curfew for a period not

1 to exceed thirty days;

2 (vi) Community service for a specified number of hours  
3 pursuant to sections 29-2277 to 29-2279;

4 (vii) Travel restrictions to stay within his or her  
5 residence or county of residence or employment unless otherwise  
6 permitted by the supervising probation officer;

7 (viii) Restructuring court-imposed financial obligations  
8 to mitigate their effect on the juvenile subject to the supervision  
9 of a probation officer; and

10 (ix) Implementation of educational or cognitive  
11 behavioral programming;

12 (b) Noncriminal violation means activities or behaviors  
13 of a juvenile subject to the supervision of a probation officer  
14 which create the opportunity for re-offending or which diminish the  
15 effectiveness of probation supervision resulting in a violation of  
16 an original condition of probation, including, but not limited to:

17 (i) Moving traffic violations;

18 (ii) Failure to report to his or her probation officer;

19 (iii) Leaving the juvenile's residence, jurisdiction of  
20 the court, or the state without the permission of the court or his  
21 or her probation officer;

22 (iv) Failure to regularly attend school, vocational  
23 training, other training, counseling, treatment, programming, or  
24 employment;

25 (v) Noncompliance with school rules;

- 1           (vi) Continued violations of home rules;
- 2           (vii) Failure to notify his or her probation officer of  
3 change of address, school, or employment;
- 4           (viii) Frequenting places where controlled substances are  
5 illegally sold, used, distributed, or administered and association  
6 with persons engaged in illegal activity;
- 7           (ix) Failure to perform community service as directed;  
8 and
- 9           (x) Curfew or electronic monitoring violations; and
- 10          (c) Substance abuse violation means activities or  
11 behaviors of a juvenile subject to the supervision of a probation  
12 officer associated with the use of chemical substances or related  
13 treatment services resulting in a violation of an original  
14 condition of probation, including, but not limited to:
- 15           (i) Positive breath test for the consumption of alcohol;  
16           (ii) Positive urinalysis for the illegal use of drugs;  
17           (iii) Failure to report for alcohol testing or drug  
18 testing;
- 19           (iv) Failure to appear for or complete substance abuse  
20 or mental health treatment evaluations or inpatient or outpatient  
21 treatment; and
- 22           (v) Tampering with alcohol or drug testing.
- 23          (2) Whenever a probation officer has reasonable cause to  
24 believe that a juvenile subject to the supervision of a probation  
25 officer has committed or is about to commit a substance abuse

1 violation or noncriminal violation while on probation, but that  
2 such juvenile will not attempt to leave the jurisdiction and will  
3 not place lives or property in danger, the probation officer shall  
4 either:

5 (a) Impose one or more administrative sanctions with the  
6 approval of his or her chief probation officer or such chief's  
7 designee. The decision to impose administrative sanctions in lieu  
8 of formal revocation proceedings rests with the probation officer  
9 and his or her chief probation officer or such chief's designee  
10 and shall be based upon such juvenile's risk level, the severity  
11 of the violation, and the juvenile's response to the violation.  
12 If administrative sanctions are to be imposed, such juvenile shall  
13 acknowledge in writing the nature of the violation and agree  
14 upon the administrative sanction with approval of such juvenile's  
15 parents or guardian. Such juvenile has the right to decline to  
16 acknowledge the violation, and if he or she declines to acknowledge  
17 the violation, the probation officer shall submit a written report  
18 pursuant to subdivision (2)(b) of this section. A copy of the  
19 report shall be submitted to the county attorney of the county  
20 where probation was imposed; or

21 (b) Submit a written report to the adjudicating court  
22 with a copy to the county attorney of the county where probation  
23 was imposed, outlining the nature of the probation violation and  
24 request that formal revocation proceedings be instituted against  
25 the juvenile subject to the supervision of a probation officer.

1           (3) Whenever a probation officer has reasonable cause to  
2 believe that a juvenile subject to the supervision of a probation  
3 officer has violated or is about to violate a condition of  
4 probation other than a substance abuse violation or noncriminal  
5 violation and that such juvenile will not attempt to leave the  
6 jurisdiction and will not place lives or property in danger, the  
7 probation officer shall submit a written report to the adjudicating  
8 court, with a copy to the county attorney of the county where  
9 probation was imposed, outlining the nature of the probation  
10 violation.

11           (4) Whenever a probation officer has reasonable cause to  
12 believe that a juvenile subject to the supervision of a probation  
13 officer has violated or is about to violate a condition of his  
14 or her probation and that such juvenile will attempt to leave  
15 the jurisdiction or will place lives or property in danger, the  
16 probation officer shall take such juvenile into temporary custody  
17 without a warrant and may call on any peace officer for assistance  
18 as provided in section 43-248.

19           (5) Immediately after detention pursuant to subsection  
20 (4) of this section, the probation officer shall notify the county  
21 attorney of the county where probation was imposed and submit  
22 a written report of the reason for such detention and of any  
23 violation of probation. After prompt consideration of the written  
24 report, the county attorney shall:

25           (a) Order the release of the juvenile from confinement

1 subject to the supervision of a probation officer; or

2 (b) File with the adjudicating court a motion or  
3 information to revoke the probation.

4 (6) Whenever a county attorney receives a report from a  
5 probation officer that a juvenile subject to the supervision of a  
6 probation officer has violated a condition of probation, the county  
7 attorney may file a motion or information to revoke probation.

8 (7) The probation administrator shall adopt and  
9 promulgate rules and regulations to carry out this section.

10 Sec. 8. Section 29-2262.07, Reissue Revised Statutes of  
11 Nebraska, as amended by section 15, Legislative Bill 3, One Hundred  
12 First Legislature, First Special Session, 2009, is amended to read:

13 29-2262.07 The Probation Program Cash Fund is created.  
14 All funds collected pursuant to section 29-2262.06 shall be  
15 remitted to the State Treasurer for credit to the fund. Except  
16 as otherwise directed by the Supreme Court during the period  
17 from the effective date of this act until June 30, 2011, the  
18 fund shall be utilized by the administrator, in consultation  
19 with the Community Corrections Council, for the purposes stated  
20 in subdivision (14) of section 29-2252, except that the State  
21 Treasurer shall, on or before June 30, 2011, on such date as  
22 directed by the budget administrator of the budget division of  
23 the Department of Administrative Services, transfer the amount  
24 set forth in Legislative Bill 1, One Hundred First Legislature,  
25 First Special Session, 2009. Any money in the fund available

1 for investment shall be invested by the state investment officer  
2 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
3 State Funds Investment Act.

4 On the effective date of this act, the State Treasurer  
5 shall transfer three hundred fifty thousand dollars from the  
6 Probation Program Cash Fund to the Violence Prevention Cash Fund.  
7 The Office of Violence Prevention shall distribute such funds  
8 as soon as practicable after the effective date of this act to  
9 organizations or governmental entities that have submitted violence  
10 prevention plans and that best meet the intent of reducing street  
11 and gang violence and reducing homicides and injuries caused by  
12 firearms.

13 Sec. 9. Section 29-2269, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 29-2269 Sections 29-2246 to 29-2269 and section 7 of this  
16 act shall be known and may be cited as the Nebraska Probation  
17 Administration Act.

18 Sec. 10. A juvenile offender civil citation pilot program  
19 as provided in this section and section 11 of this act may be  
20 undertaken by the peace officers and county and city attorneys of  
21 a county containing a city of the metropolitan class. The pilot  
22 program shall be according to the following procedures:

23 (1) A peace officer, upon making contact with a juvenile  
24 whom the peace officer has reasonable grounds to believe has  
25 committed a misdemeanor offense, other than an offense involving

1 a firearm, sexual assault, or domestic violence, may issue the  
2 juvenile a civil citation;

3 (2) The civil citation shall include: The juvenile's  
4 name, address, school of attendance, and contact information;  
5 contact information for the juvenile's parents or guardian; a  
6 description of the misdemeanor offense believed to have been  
7 committed; the juvenile assessment center where the juvenile cited  
8 is to appear within seventy-two hours after the issuance of the  
9 civil citation; and a warning that failure to appear in accordance  
10 with the command of the civil citation or failure to provide the  
11 information necessary for the peace officer to complete the civil  
12 citation will result in the juvenile being taken into temporary  
13 custody as provided in sections 43-248 and 43-250;

14 (3) At the time of issuance of a civil citation by the  
15 peace officer, the peace officer shall advise the juvenile that the  
16 juvenile has the option to refuse the civil citation and be taken  
17 directly into temporary custody as provided in sections 43-248 and  
18 43-250. The option to refuse the civil citation may be exercised at  
19 any time prior to compliance with any services required pursuant to  
20 subdivision (5) of this section;

21 (4) Upon issuing a civil citation, the peace officer  
22 shall provide or send a copy of the civil citation to the  
23 appropriate county attorney, the juvenile assessment center, and  
24 the parents or guardian of the juvenile;

25 (5) The juvenile shall report to the juvenile assessment

1 center as instructed by the citation. The juvenile assessment  
2 center may require the juvenile to participate in community service  
3 or other available services appropriate to the needs of the  
4 juvenile identified by the juvenile assessment center which may  
5 include family counseling, urinalysis monitoring, or substance  
6 abuse and mental health treatment services; and

7 (6) If the juvenile fails to comply with any services  
8 required pursuant to subdivision (5) of this section or if the  
9 juvenile is issued a third or subsequent civil citation, a peace  
10 officer shall take the juvenile into temporary custody as provided  
11 in sections 43-248 and 43-250.

12 Sec. 11. To achieve uniformity, the Supreme Court shall  
13 prescribe the form of a civil citation which conforms to the  
14 requirements for a civil citation in section 10 of this act  
15 and such other matter as the court deems appropriate. The civil  
16 citation shall not include a place for the cited juvenile's social  
17 security number.

18 Sec. 12. Section 43-245, Revised Statutes Supplement,  
19 2009, is amended to read:

20 43-245 For purposes of the Nebraska Juvenile Code, unless  
21 the context otherwise requires:

22 (1) Age of majority means nineteen years of age;

23 (2) Approved center means a center that has applied for  
24 and received approval from the Director of the Office of Dispute  
25 Resolution under section 25-2909;

1           ~~(3)~~ (3) Civil citation means a noncriminal notice which  
2 cannot result in a criminal record and is described in section 10  
3 of this act;

4           ~~(3)~~ (4) Cost or costs means (a) the sum or equivalent  
5 expended, paid, or charged for goods or services, or expenses  
6 incurred, or (b) the contracted or negotiated price;

7           ~~(4)~~ (5) Criminal street gang means a group of three or  
8 more people with a common identifying name, sign, or symbol whose  
9 group identity or purposes include engaging in illegal activities;

10           ~~(5)~~ (6) Criminal street gang member means a person who  
11 willingly or voluntarily becomes and remains a member of a criminal  
12 street gang;

13           ~~(6)~~ (7) Juvenile means any person under the age of  
14 eighteen;

15           ~~(7)~~ (8) Juvenile court means the separate juvenile court  
16 where it has been established pursuant to sections 43-2,111 to  
17 43-2,127 and the county court sitting as a juvenile court in all  
18 other counties. Nothing in the Nebraska Juvenile Code shall be  
19 construed to deprive the district courts of their habeas corpus,  
20 common-law, or chancery jurisdiction or the county courts and  
21 district courts of jurisdiction of domestic relations matters as  
22 defined in section 25-2740;

23           ~~(8)~~ (9) Juvenile detention facility has the same meaning  
24 as in section 83-4,125;

25           ~~(9)~~ (10) Mediator for juvenile offender and victim

1 mediation means a person who (a) has completed at least thirty  
2 hours of training in conflict resolution techniques, neutrality,  
3 agreement writing, and ethics set forth in section 25-2913, (b) has  
4 an additional eight hours of juvenile offender and victim mediation  
5 training, and (c) meets the apprenticeship requirements set forth  
6 in section 25-2913;

7 ~~(10)~~ (11) Mental health facility means a treatment  
8 facility as defined in section 71-914 or a government, private, or  
9 state hospital which treats mental illness;

10 ~~(11)~~ (12) Nonoffender means a juvenile who is subject  
11 to the jurisdiction of the juvenile court for reasons other  
12 than legally prohibited conduct, including, but not limited to,  
13 juveniles described in subdivision (3) (a) of section 43-247;

14 ~~(12)~~ (13) Nonsecure detention means detention  
15 characterized by the absence of restrictive hardware, construction,  
16 and procedure. Nonsecure detention services may include a range  
17 of placement and supervision options, such as home detention,  
18 electronic monitoring, day reporting, drug court, tracking and  
19 monitoring supervision, staff secure and temporary holdover  
20 facilities, and group homes;

21 ~~(13)~~ (14) Parent means one or both parents or a  
22 stepparent when such stepparent is married to the custodial parent  
23 as of the filing of the petition;

24 ~~(14)~~ (15) Parties means the juvenile as described in  
25 section 43-247 and his or her parent, guardian, or custodian;

1           ~~(15)~~ (16) Except in proceedings under the Nebraska Indian  
2 Child Welfare Act, relative means father, mother, grandfather,  
3 grandmother, brother, sister, stepfather, stepmother, stepbrother,  
4 stepsister, uncle, aunt, first cousin, nephew, or niece;

5           (17) Seal a record means that a record shall not be  
6 available to the public except upon the order of a court upon good  
7 cause shown;

8           ~~(16)~~ (18) Secure detention means detention in a highly  
9 structured, residential, hardware-secured facility designed to  
10 restrict a juvenile's movement;

11           ~~(17)~~ (19) Status offender means a juvenile who has been  
12 charged with or adjudicated for conduct which would not be a crime  
13 if committed by an adult, including, but not limited to, juveniles  
14 charged under subdivision (3)(b) of section 43-247 and sections  
15 53-180.01 and 53-180.02; and

16           ~~(18)~~ (20) Traffic offense means any nonfelonious act in  
17 violation of a law or ordinance regulating vehicular or pedestrian  
18 travel, whether designated a misdemeanor or a traffic infraction.

19           Sec. 13. Section 43-246, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           43-246 Acknowledging the responsibility of the juvenile  
22 court to act to preserve the public peace and security, the  
23 Nebraska Juvenile Code shall be construed to effectuate the  
24 following:

25           (1) To assure the rights of all juveniles to care

1 and protection and a safe and stable living environment and to  
2 development of their capacities for a healthy personality, physical  
3 well-being, and useful citizenship and to protect the public  
4 interest;

5 (2) To provide for the intervention of the juvenile court  
6 in the interest of any juvenile who is within the provisions of  
7 the Nebraska Juvenile Code, with due regard to parental rights and  
8 capacities and the availability of nonjudicial resources;

9 (3) To remove juveniles who are within the Nebraska  
10 Juvenile Code from the criminal justice system whenever possible  
11 and to reduce the possibility of their committing future law  
12 violations through the provision of social and rehabilitative  
13 services to such juveniles and their families;

14 (4) To offer selected juveniles the opportunity to take  
15 direct personal responsibility for their individual actions by  
16 reconciling with the victims through juvenile offender and victim  
17 mediation and fulfilling the terms of the resulting agreement which  
18 may require restitution and community service;

19 (5) To achieve the purposes of subdivisions (1) through  
20 (3) of this section in the juvenile's own home whenever possible,  
21 separating the juvenile from his or her parent when necessary for  
22 his or her welfare, the juvenile's health and safety being of  
23 paramount concern, or in the interest of public safety and, when  
24 temporary separation is necessary, to consider the developmental  
25 needs of the individual juvenile in all placements, to consider

1 relatives as a preferred potential placement resource, and to make  
 2 reasonable efforts to preserve and reunify the family if required  
 3 under section 43-283.01;

4 (6) To promote adoption, guardianship, or other permanent  
 5 arrangements for children in the custody of the Department of  
 6 Health and Human Services who are unable to return home;

7 (7) To provide a judicial procedure through which these  
 8 purposes and goals are accomplished and enforced in which the  
 9 parties are assured a fair hearing and their constitutional and  
 10 other legal rights are recognized and enforced; ~~and~~

11 (8) To assure compliance, in cases involving Indian  
 12 children, with the Nebraska Indian Child Welfare Act; ~~and-~~

13 (9) To make any temporary placement of a juvenile in the  
 14 least restrictive environment consistent with the best interests of  
 15 the juvenile and the safety of the community.

16 Sec. 14. Section 43-248, Reissue Revised Statutes of  
 17 Nebraska, is amended to read:

18 43-248 A peace officer may take a juvenile ~~may be taken~~  
 19 ~~into temporary custody by any peace officer~~ without a warrant or  
 20 order of the court and proceed as provided in section 43-250 when:

21 (1) A juvenile has violated a state law or municipal  
 22 ordinance ~~in the presence of the officer,~~ and the officer  
 23 has reasonable grounds to believe such juvenile committed such  
 24 violation;

25 ~~(2) A felony has been committed and the officer has~~

1 ~~reasonable grounds to believe such juvenile committed it;~~

2 ~~(3)~~ (2) A juvenile is seriously endangered in his or her  
3 surroundings and immediate removal appears to be necessary for the  
4 juvenile's protection;

5 ~~(4)~~ (3) The officer believes the juvenile to be mentally  
6 ill and dangerous as defined in section 71-908 and that the harm  
7 described in that section is likely to occur before proceedings may  
8 be instituted before the juvenile court; ~~or~~

9 ~~(5)~~ There are (4) The officer has reasonable grounds to  
10 believe that the juvenile has run away from his or her parent,  
11 guardian, or custodian;

12 (5) A probation officer has reasonable cause to believe  
13 that a juvenile is in violation of probation and that the juvenile  
14 will attempt to leave the jurisdiction or place lives or property  
15 in danger; or

16 (6) The officer has reasonable grounds to believe the  
17 juvenile is truant from school.

18 Sec. 15. Section 43-250, Revised Statutes Supplement,  
19 2009, is amended to read:

20 43-250 (1) A peace officer who takes a juvenile into  
21 temporary custody under section 29-401 or subdivision (1), (4), or  
22 (5) of section 43-248 ~~or pursuant to a legal warrant of arrest~~  
23 shall immediately take reasonable measures to notify the juvenile's  
24 parent, guardian, custodian, or relative and shall proceed as  
25 follows:

1           ~~(1)~~ (a) The peace officer shall may release such a  
 2 juvenile taken into temporary custody under section 29-401 or  
 3 subdivision (1) or (4) of section 43-248;

4           ~~(2)~~ (b) The peace officer shall ~~prepare in triplicate~~  
 5 a ~~written notice requiring the~~ may require a juvenile taken into  
 6 temporary custody under section 29-401 or subdivision (1) or (4)  
 7 of section 43-248 to appear before the juvenile court of the  
 8 county in which such juvenile was taken into custody at a time and  
 9 place specified in the written notice prepared in triplicate by  
 10 the peace officer or at the call of the court. The notice shall  
 11 also contain a concise statement of the reasons such juvenile was  
 12 taken into custody. The peace officer shall deliver one copy of the  
 13 notice to such juvenile and require such juvenile or his or her  
 14 parent, guardian, other custodian, or relative, or both, to sign a  
 15 written promise that such signer will appear at the time and place  
 16 designated in the notice. Upon the execution of the promise to  
 17 appear, the peace officer shall immediately release such juvenile.  
 18 The peace officer shall, as soon as practicable, file one copy  
 19 of the notice with the county attorney or city attorney and, when  
 20 required by the juvenile court, also file a copy of the notice with  
 21 the juvenile court or the officer appointed by the court for such  
 22 purpose; or

23           ~~(3)~~ While retaining (c) The peace officer may retain  
 24 temporary custody, ~~the peace officer shall~~ of a juvenile taken into  
 25 temporary custody under section 29-401 or subdivision (1), (4),

1 or (5) of section 43-248 and deliver the juvenile, if necessary,  
2 to the probation officer and communicate all relevant available  
3 information regarding such juvenile to the probation officer, and  
4 ~~shall deliver the juvenile, if necessary, to the probation officer.~~  
5 The probation officer shall determine the need for detention of the  
6 juvenile as provided in section 43-260.01. Upon determining that  
7 the juvenile should be placed in a secure or nonsecure placement  
8 and securing placement in such secure or nonsecure setting by the  
9 probation officer, the peace officer shall implement the probation  
10 officer's decision to release or to detain and place the juvenile.  
11 When secure detention of a juvenile is necessary, such detention  
12 shall occur within a juvenile detention facility except:

13       ~~(a)~~ (i) When a juvenile described in subdivision (1) or  
14 (2) of section 43-247, except for a status offender, is taken  
15 into temporary custody within a metropolitan statistical area and  
16 where no juvenile detention facility is reasonably available, the  
17 juvenile may be delivered, for temporary custody not to exceed  
18 six hours, to a secure area of a jail or other facility intended  
19 or used for the detention of adults solely for the purposes of  
20 identifying the juvenile and ascertaining his or her health and  
21 well-being and for safekeeping while awaiting transport to an  
22 appropriate juvenile placement or release to a responsible party;

23       ~~(b)~~ (ii) When a juvenile described in subdivision (1)  
24 or (2) of section 43-247, except for a status offender, is taken  
25 into temporary custody outside of a metropolitan statistical area

1 and where no juvenile detention facility is reasonably available,  
 2 the juvenile may be delivered, for temporary custody not to exceed  
 3 twenty-four hours excluding nonjudicial days and while awaiting an  
 4 initial court appearance, to a secure area of a jail or other  
 5 facility intended or used for the detention of adults solely for  
 6 the purposes of identifying the juvenile and ascertaining his  
 7 or her health and well-being and for safekeeping while awaiting  
 8 transport to an appropriate juvenile placement or release to a  
 9 responsible party;

10 ~~(e)~~ (iii) Whenever a juvenile is held in a secure area  
 11 of any jail or other facility intended or used for the detention  
 12 of adults, there shall be no verbal, visual, or physical contact  
 13 between the juvenile and any incarcerated adult and there shall be  
 14 adequate staff to supervise and monitor the juvenile's activities  
 15 at all times. This subdivision shall not apply to a juvenile  
 16 charged with a felony as an adult in county or district court if he  
 17 or she is sixteen years of age or older;

18 ~~(d)~~ (iv) If a juvenile is under sixteen years of age or  
 19 is a juvenile as described in subdivision (3) of section 43-247, he  
 20 or she shall not be placed within a secure area of a jail or other  
 21 facility intended or used for the detention of adults;

22 ~~(e)~~ (v) If, within the time limits specified in  
 23 subdivision ~~(3)(a)~~ ~~or~~ ~~(3)(b)~~ (1)(c)(i) or (1)(c)(ii) of this  
 24 section, a felony charge is filed against the juvenile as an adult  
 25 in county or district court, he or she may be securely held in a

1 jail or other facility intended or used for the detention of adults  
2 beyond the specified time limits;

3 ~~(f)~~ (vi) A status offender or nonoffender taken into  
4 temporary custody shall not be held in a secure area of a jail  
5 or other facility intended or used for the detention of adults. A  
6 Until January 1, 2013, a status offender accused of violating a  
7 valid court order may be securely detained in a juvenile detention  
8 facility longer than twenty-four hours if he or she is afforded  
9 a detention hearing before a court within twenty-four hours,  
10 excluding nonjudicial days, and if, prior to a dispositional  
11 commitment to secure placement, a public agency, other than a court  
12 or law enforcement agency, is afforded an opportunity to review the  
13 juvenile's behavior and possible alternatives to secure placement  
14 and has submitted a written report to the court; and

15 ~~(g)~~ (vii) A juvenile described in subdivision (1) or (2)  
16 of section 43-247, except for a status offender, may be held in a  
17 secure area of a jail or other facility intended or used for the  
18 detention of adults for up to six hours before and six hours after  
19 any court appearance.

20 ~~(4)~~ (2) When a juvenile is taken into temporary custody  
21 pursuant to subdivision ~~(3)~~ (2) of section 43-248, the peace  
22 officer shall deliver the custody of such juvenile to the  
23 Department of Health and Human Services which shall make a  
24 temporary placement of the juvenile in the least restrictive  
25 environment consistent with the best interests of the juvenile as

1 determined by the department. The department shall supervise such  
2 placement and, if necessary, consent to any necessary emergency  
3 medical, psychological, or psychiatric treatment for such juvenile.  
4 The department shall have no other authority with regard to such  
5 temporary custody until or unless there is an order by the court  
6 placing the juvenile in the custody of the department. If the peace  
7 officer delivers temporary custody of the juvenile pursuant to  
8 this ~~subdivision~~, subsection, the peace officer shall make a full  
9 written report to the county attorney within twenty-four hours of  
10 taking such juvenile into temporary custody. If a court order of  
11 temporary custody is not issued within forty-eight hours of taking  
12 the juvenile into custody, the temporary custody by the department  
13 shall terminate and the juvenile shall be returned to the custody  
14 of his or her parent, guardian, custodian, or relative.†

15           ~~(5)~~ (3) If the peace officer takes the juvenile into  
16 temporary custody pursuant to subdivision ~~(4)~~ (3) of section  
17 43-248, the peace officer may place the juvenile at a mental health  
18 facility for evaluation and emergency treatment or may deliver the  
19 juvenile to the Department of Health and Human Services as provided  
20 in ~~subdivision~~ ~~(4)~~ subsection (2) of this section. At the time  
21 of the admission or turning the juvenile over to the department,  
22 the peace officer responsible for taking the juvenile into custody  
23 shall execute a written certificate as prescribed by the Department  
24 of Health and Human Services which will indicate that the peace  
25 officer believes the juvenile to be mentally ill and dangerous,

1 a summary of the subject's behavior supporting such allegations,  
2 and that the harm described in section 71-908 is likely to occur  
3 before proceedings before a juvenile court may be invoked to  
4 obtain custody of the juvenile. A copy of the certificate shall be  
5 forwarded to the county attorney. The peace officer shall notify  
6 the juvenile's parents, guardian, custodian, or relative of the  
7 juvenile's placement. ~~or~~

8 (4) When a juvenile is taken into temporary custody  
9 pursuant to subdivision (6) of section 43-248, the peace officer  
10 shall deliver the juvenile to the enrolled school of such juvenile.

11 ~~(6) Beginning July 1, 2010, a~~ (5) A juvenile taken into  
12 custody pursuant to a legal warrant of arrest shall be delivered  
13 to the probation officer who shall determine the need for detention  
14 of the juvenile as provided in section 43-260.01. If detention is  
15 not required, the juvenile may be released without bond if such  
16 release is in the best interests of the juvenile, the safety of the  
17 community is not at risk, and the court that issued the warrant is  
18 notified that the juvenile has been taken into custody.

19 (6) In determining the appropriate temporary placement of  
20 a juvenile under this section, the peace officer shall select the  
21 placement which is least restrictive of the juvenile's freedom so  
22 long as such placement is compatible with the best interests of the  
23 juvenile and the safety of the community.

24 Sec. 16. Section 43-253, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           43-253 (1) Upon delivery to the probation officer of a  
2 juvenile who has been taken into temporary custody under ~~sections~~  
3 section 29-401, 43-248, or and 43-250, the probation officer shall  
4 immediately investigate the situation of the juvenile and the  
5 nature and circumstances of the events surrounding his or her being  
6 taken into custody. Such investigation may be by informal means  
7 when appropriate.

8           (2) The probation officer's decision to release the  
9 juvenile from custody or place the juvenile in secure or nonsecure  
10 detention shall be based upon the results of the standardized  
11 juvenile detention screening instrument described in section  
12 43-260.01.

13           (3) No juvenile who has been taken into temporary custody  
14 under subdivision ~~(3)~~ (1)(c) of section 43-250 shall be detained  
15 in any secure detention facility for longer than twenty-four hours,  
16 excluding nonjudicial days, after having been taken into custody  
17 unless such juvenile has appeared personally before a court of  
18 competent jurisdiction for a hearing to determine if continued  
19 detention is necessary. If continued secure detention is ordered,  
20 such detention shall be in a juvenile detention facility, except  
21 that a juvenile charged with a felony as an adult in county or  
22 district court may be held in an adult jail as set forth in  
23 subdivision ~~(3)(e)~~ (1)(c)(v) of section 43-250.

24           (4) When the probation officer deems it to be in the best  
25 interests of the juvenile, the probation officer shall immediately

1 release such juvenile to the custody of his or her parent. If  
2 the juvenile has both a custodial and a noncustodial parent and  
3 the probation officer deems that release of the juvenile to the  
4 custodial parent is not in the best interests of the juvenile,  
5 the probation officer shall, if it is deemed to be in the best  
6 interests of the juvenile, attempt to contact the noncustodial  
7 parent, if any, of the juvenile and to release the juvenile to such  
8 noncustodial parent. If such release is not possible or not deemed  
9 to be in the best interests of the juvenile, the probation officer  
10 may release the juvenile to the custody of a legal guardian, a  
11 responsible relative, or another responsible person.

12 (5) The court may admit such juvenile to bail by bond in  
13 such amount and on such conditions and security as the court, in  
14 its sole discretion, shall determine, or the court may proceed as  
15 provided in section 43-254. In no case shall the court or probation  
16 officer release such juvenile if it appears that further detention  
17 or placement of such juvenile is a matter of immediate and urgent  
18 necessity for the protection of such juvenile or the person or  
19 property of another or if it appears that such juvenile is likely  
20 to flee the jurisdiction of the court.

21 Sec. 17. Section 43-254, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-254 Pending the adjudication of any case, if it  
24 appears that the need for placement or further detention exists,  
25 the juvenile may be (1) placed or detained a reasonable period of

1 time on order of the court in the temporary custody of either the  
2 person having charge of the juvenile or some other suitable person,  
3 (2) kept in some suitable place provided by the city or county  
4 authorities, (3) placed in any proper and accredited charitable  
5 institution, (4) placed in a state institution, except any adult  
6 correctional facility, when proper facilities are available and the  
7 only local facility is a city or county jail, at the expense of  
8 the committing county on a per diem basis as determined from time  
9 to time by the head of the particular institution, or (5) placed  
10 in the temporary care and custody of the Department of Health and  
11 Human Services when it does not appear that there is any need for  
12 secure detention. The court may assess the cost of such placement  
13 or detention in whole or in part to the parent of the juvenile as  
14 provided in section 43-290.

15           If a juvenile has been removed from his or her parent,  
16 guardian, or custodian pursuant to subdivision ~~(3)~~ (2) of section  
17 43-248, the court may enter an order continuing detention or  
18 placement upon a written determination that continuation of the  
19 juvenile in his or her home would be contrary to the health,  
20 safety, or welfare of such juvenile and that reasonable efforts  
21 were made to preserve and reunify the family if required under  
22 subsections (1) through (4) of section 43-283.01.

23           Sec. 18. Section 43-254.01, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           43-254.01 (1) Any time a juvenile is temporarily placed

1 at a mental health facility pursuant to ~~subdivision (5)~~ subsection  
2 (3) of section 43-250 or by a court as a juvenile who is mentally  
3 ill and dangerous, a mental health professional as defined in  
4 section 71-906 shall evaluate the mental condition of the juvenile  
5 as soon as reasonably possible but not later than thirty-six hours  
6 after the juvenile's admission, unless the juvenile was evaluated  
7 by a mental health professional immediately prior to the juvenile  
8 being placed in temporary custody and the temporary custody is  
9 based upon the conclusions of that evaluation. The mental health  
10 professional who performed the evaluation prior to the temporary  
11 custody or immediately after the temporary custody shall, without  
12 delay, convey the results of his or her evaluation to the county  
13 attorney.

14 (2) If it is the judgment of the mental health  
15 professional that the juvenile is not mentally ill and dangerous or  
16 that the harm described in section 71-908 is not likely to occur  
17 before the matter may be heard by a juvenile court, the mental  
18 health professional shall immediately notify the county attorney  
19 of that conclusion and the county attorney shall either proceed  
20 to hearing before the court within twenty-four hours or order the  
21 immediate release of the juvenile from temporary custody. Such  
22 release shall not prevent the county attorney from proceeding on  
23 the petition if he or she so chooses.

24 (3) A juvenile taken into temporary protective custody  
25 under ~~subdivision (5)~~ subsection (3) of section 43-250 shall

1 have the opportunity to proceed to adjudication hearing within  
2 seven days unless the matter is continued. Continuances shall be  
3 liberally granted at the request of the juvenile, his or her  
4 guardian ad litem, attorney, parents, or guardian. Continuances  
5 may be granted to permit the juvenile an opportunity to obtain  
6 voluntary treatment.

7           Sec. 19. Section 43-256, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           43-256 When the court enters an order continuing  
10 placement or detention pursuant to section 43-253, upon request  
11 of the juvenile, or his or her parent, guardian, or attorney,  
12 the court shall hold a hearing within forty-eight hours, at which  
13 hearing the burden of proof shall be upon the state to show  
14 probable cause that such juvenile is within the jurisdiction of the  
15 court. Strict rules of evidence shall not apply at the probable  
16 cause hearing. The juvenile shall be released if probable cause is  
17 not shown. At the option of the court, it may hold the adjudication  
18 hearing provided in section 43-279 as soon as possible instead  
19 of the probable cause hearing if held within a reasonable period  
20 of time. This section and section 43-255 shall not apply to a  
21 juvenile (1) who has escaped from a commitment or (2) who has been  
22 taken into custody for his or her own protection as provided in  
23 subdivision ~~(3)~~ (2) of section 43-248 in which case the juvenile  
24 shall be held on order of the court with jurisdiction for a  
25 reasonable period of time.

1           Sec. 20. Section 43-258, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           43-258 (1) Pending the adjudication of any case under the  
4 Nebraska Juvenile Code, the court may order the juvenile examined  
5 by a physician, surgeon, psychiatrist, duly authorized community  
6 mental health service program, or psychologist to aid the court  
7 in determining (a) a material allegation in the petition relating  
8 to the juvenile's physical or mental condition, (b) the juvenile's  
9 competence to participate in the proceedings, (c) the juvenile's  
10 responsibility for his or her acts, or (d) whether or not to  
11 provide emergency medical treatment.

12           (2) Pending the adjudication of any case under the  
13 Nebraska Juvenile Code and after a showing of probable cause that  
14 the juvenile is within the court's jurisdiction, for the purposes  
15 of subsection (1) of this section, the court may order such  
16 juvenile to be placed in one of the facilities or institutions  
17 of the State of Nebraska. Such juvenile shall not be placed  
18 in an adult correctional facility, the secure youth confinement  
19 facility operated by the Department of Correctional Services, or  
20 a youth rehabilitation and treatment center. Any placement for  
21 evaluation may be made on a residential or nonresidential basis for  
22 a period not to exceed thirty days except as provided by section  
23 43-415. The head of any facility or institution shall make a  
24 complete evaluation of the juvenile, including any authorized area  
25 of inquiry requested by the court. Any temporary placement of a

1 juvenile made under this section shall be in the least restrictive  
2 environment consistent with the best interests of the juvenile and  
3 the safety of the community.

4 (3) Upon completion of the evaluation, the juvenile  
5 shall be returned to the court together with a written report  
6 of the results of the evaluation. Such report shall include an  
7 assessment of the basic needs of the juvenile and recommendations  
8 for continuous and long-term care and shall be made to effectuate  
9 the purposes in subdivision (1) of section 43-246. The juvenile  
10 shall appear before the court for a hearing on the report of the  
11 evaluation results within ten days after the court receives the  
12 evaluation.

13 (4) In order to encourage the use of the procedure  
14 provided in this section, all costs incurred during the period the  
15 juvenile is being evaluated at a state facility or program funded  
16 by the Office of Juvenile Services shall be the responsibility of  
17 the state unless otherwise ordered by the court pursuant to section  
18 43-290. The county in which the case is pending shall be liable  
19 only for the cost of delivering the juvenile to the facility or  
20 institution and the cost of returning him or her to the court for  
21 disposition.

22 Sec. 21. Section 43-272.01, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 43-272.01 (1) A guardian ad litem as provided for in  
25 subsections (2) and (3) of section 43-272 shall be appointed

1 when a child is removed from his or her surroundings pursuant to  
2 subdivision ~~(3) or (4)~~ (2) or (3) of section 43-248, ~~subdivision~~  
3 ~~(4)~~ subsection (2) of section 43-250, or section 43-251. If removal  
4 has not occurred, a guardian ad litem shall be appointed at the  
5 commencement of all cases brought under subdivision (3)(a) or (8)  
6 of section 43-247 and section 28-707.

7 (2) In the course of discharging duties as guardian ad  
8 litem, the person so appointed shall consider, but not be limited  
9 to, the criteria provided in this subsection. The guardian ad  
10 litem:

11 (a) Is appointed to stand in lieu of a parent for a  
12 protected juvenile who is the subject of a juvenile court petition,  
13 shall be present at all hearings before the court in such matter  
14 unless expressly excused by the court, and may enter into such  
15 stipulations and agreements concerning adjudication and disposition  
16 deemed by him or her to be in the juvenile's best interests;

17 (b) Is not appointed to defend the parents or other  
18 custodian of the protected juvenile but shall defend the legal  
19 and social interests of such juvenile. Social interests shall  
20 be defined generally as the usual and reasonable expectations of  
21 society for the appropriate parental custody and protection and  
22 quality of life for juveniles without regard to the socioeconomic  
23 status of the parents or other custodians of the juvenile;

24 (c) May at any time after the filing of the petition  
25 move the court of jurisdiction to provide medical or psychological

1 treatment or evaluation as set out in section 43-258. The guardian  
2 ad litem shall have access to all reports resulting from any  
3 examination ordered under section 43-258, and such reports shall be  
4 used for evaluating the status of the protected juvenile;

5 (d) Shall make every reasonable effort to become  
6 familiar with the needs of the protected juvenile which (i) shall  
7 include consultation with the juvenile within two weeks after the  
8 appointment and once every six months thereafter and inquiry of  
9 the most current caseworker, foster parent, or other custodian  
10 and (ii) may include inquiry of others directly involved with  
11 the juvenile or who may have information or knowledge about the  
12 circumstances which brought the juvenile court action or related  
13 cases and the development of the juvenile, including biological  
14 parents, physicians, psychologists, teachers, and clergy members;

15 (e) May present evidence and witnesses and cross-examine  
16 witnesses at all evidentiary hearings. In any proceeding under this  
17 section relating to a child of school age, certified copies of  
18 school records relating to attendance and academic progress of such  
19 child are admissible in evidence;

20 (f) Shall be responsible for making recommendations to  
21 the court regarding the temporary and permanent placement of the  
22 protected juvenile and shall submit a written report to the court  
23 at every dispositional or review hearing, or in the alternative,  
24 the court may provide the guardian ad litem with a checklist  
25 that shall be completed and presented to the court at every

1 dispositional or review hearing;

2 (g) Shall consider such other information as is warranted  
3 by the nature and circumstances of a particular case; and

4 (h) May file a petition in the juvenile court on behalf  
5 of the juvenile, including a supplemental petition as provided in  
6 section 43-291.

7 (3) Nothing in this section shall operate to limit the  
8 discretion of the juvenile court in protecting the best interests  
9 of a juvenile who is the subject of a juvenile court petition.

10 (4) For purposes of subdivision (2)(d) of this section,  
11 the court may order the expense of such consultation, if any, to be  
12 paid by the county in which the juvenile court action is brought  
13 or the court may, after notice and hearing, assess the cost of  
14 such consultation, if any, in whole or in part to the parents of  
15 the juvenile. The ability of the parents to pay and the amount  
16 of the payment shall be determined by the court by appropriate  
17 examination.

18 Sec. 22. Section 43-278, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20 43-278 Except as provided in sections 43-254.01 and  
21 43-277.01, all cases filed under subdivision (3) of section 43-247  
22 shall have an adjudication hearing not more than ninety days after  
23 a petition is filed. Upon a showing of good cause, the court may  
24 continue the case beyond the ninety-day period. The court shall  
25 also review every case filed under such subdivision which has

1 been adjudicated or transferred to it for disposition not less  
2 than once every six months. All communications, notices, orders,  
3 authorizations, and requests authorized or required in the Nebraska  
4 Juvenile Code; all nonevidentiary hearings; and any evidentiary  
5 hearings approved by the court and by stipulation of all parties  
6 may be heard by the court telephonically or by videoconferencing  
7 in a manner that ensures the preservation of an accurate record.  
8 ~~7 with the exception of any adjudication hearing, disposition~~  
9 ~~hearing, or hearing to terminate parental rights, may be made by~~  
10 ~~telephone when other means of communication are impractical as~~  
11 ~~determined by the court.~~ All of the orders generated by way of  
12 a telephonic or videoconference hearing shall be recorded as if  
13 the judge were conducting a hearing on the record. Telephonic and  
14 videoconference hearings allowed under this section shall not be in  
15 conflict with section 24-734.

16           Sec. 23. Section 43-285, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           43-285 (1) When the court awards a juvenile to the care  
19 of the Department of Health and Human Services, an association,  
20 or an individual in accordance with the Nebraska Juvenile Code,  
21 the juvenile shall, unless otherwise ordered, become a ward and  
22 be subject to the guardianship of the department, association,  
23 or individual to whose care he or she is committed. Any such  
24 association and the department shall have authority, by and  
25 with the assent of the court, to determine the care, placement,

1 medical services, psychiatric services, training, and expenditures  
2 on behalf of each juvenile committed to it. Such guardianship shall  
3 not include the guardianship of any estate of the juvenile.

4 (2) Following an adjudication hearing at which a juvenile  
5 is adjudged to be under subdivision (3) of section 43-247, the  
6 court may order the department to prepare and file with the  
7 court a proposed plan for the care, placement, services, and  
8 permanency which are to be provided to such juvenile and his  
9 or her family. The health and safety of the juvenile shall be  
10 the paramount concern in the proposed plan. The department shall  
11 include in the plan for a juvenile who is sixteen years of  
12 age or older and subject to the guardianship of the department  
13 a written proposal describing programs and services designed to  
14 assist the juvenile in acquiring independent living skills. If  
15 any other party, including, but not limited to, the guardian  
16 ad litem, parents, county attorney, or custodian, proves by a  
17 preponderance of the evidence that the department's plan is not  
18 in the juvenile's best interests, the court shall disapprove the  
19 department's plan. The court may modify the plan, order that an  
20 alternative plan be developed, or implement another plan that is  
21 in the juvenile's best interests. In its order the court shall  
22 include a finding regarding the appropriateness of the programs and  
23 services described in the proposal designed to assist the juvenile  
24 in acquiring independent living skills. Rules of evidence shall not  
25 apply at the dispositional hearing when the court considers the

1 plan that has been presented. ~~The department or any other party~~  
2 ~~may request a review of the court's order concerning the plan by a~~  
3 ~~juvenile review panel as provided in section 43-287.04.~~

4 (3) Within thirty days after an order awarding a juvenile  
5 to the care of the department, an association, or an individual  
6 and until the juvenile reaches the age of majority, the department,  
7 association, or individual shall file with the court a report  
8 stating the location of the juvenile's placement and the needs of  
9 the juvenile in order to effectuate the purposes of subdivision  
10 (1) of section 43-246. The department, association, or individual  
11 shall file a report with the court once every six months or at  
12 shorter intervals if ordered by the court or deemed appropriate  
13 by the department, association, or individual. The department,  
14 association, or individual shall file a report and notice of  
15 placement change with the court and shall send copies of the  
16 notice to all interested parties at least seven days before the  
17 placement of the juvenile is changed from what the court originally  
18 considered to be a suitable family home or institution to some  
19 other custodial situation in order to effectuate the purposes of  
20 subdivision (1) of section 43-246. The court, on its own motion  
21 or upon the filing of an objection to the change by an interested  
22 party, may order a hearing to review such a change in placement  
23 and may order that the change be stayed until the completion of  
24 the hearing. Nothing in this section shall prevent the court on  
25 an ex parte basis from approving an immediate change in placement

1 upon good cause shown. The department may make an immediate change  
2 in placement without court approval only if the juvenile is in a  
3 harmful or dangerous situation or when the foster parents request  
4 that the juvenile be removed from their home. Approval of the court  
5 shall be sought within twenty-four hours after making the change in  
6 placement or as soon thereafter as possible. ~~The department or any~~  
7 ~~other party may request a review of the change in placement by a~~  
8 ~~juvenile review panel in the manner set out in section 43-287.04.~~  
9 The department shall provide the juvenile's guardian ad litem with  
10 a copy of any report filed with the court by the department  
11 pursuant to this subsection.

12 (4) The court shall also hold a permanency hearing if  
13 required under section 43-1312.

14 (5) When the court awards a juvenile to the care of the  
15 department, an association, or an individual, then the department,  
16 association, or individual shall have standing as a party to file  
17 any pleading or motion, to be heard by the court with regard to  
18 such filings, and to be granted any review or relief requested in  
19 such filings consistent with the Nebraska Juvenile Code.

20 (6) Whenever a juvenile is in a foster care placement as  
21 defined in section 43-1301, the State Foster Care Review Board may  
22 participate in proceedings concerning the juvenile as provided in  
23 section 43-1313 and notice shall be given as provided in section  
24 43-1314.

25 (7) Any written findings or recommendations of the State

1 Foster Care Review Board or any designated local foster care  
2 review board with regard to a juvenile in a foster care placement  
3 submitted to a court having jurisdiction over such juvenile shall  
4 be admissible in any proceeding concerning such juvenile if such  
5 findings or recommendations have been provided to all other parties  
6 of record.

7 (8) Any member of the State Foster Care Review Board,  
8 any of its agents or employees, or any member of any local foster  
9 care review board participating in an investigation or making any  
10 report pursuant to the Foster Care Review Act or participating in a  
11 judicial proceeding pursuant to this section shall be immune from  
12 any civil liability that would otherwise be incurred except for  
13 false statements negligently made.

14 Sec. 24. (1) When a juvenile is adjudged to be a juvenile  
15 described in subdivision (1), (2), (3)(b), or (4) of section  
16 43-247, the juvenile court may:

17 (a) If such juvenile has one or more licenses or permits  
18 issued under the Motor Vehicle Operator's License Act, impound any  
19 such licenses or permits for thirty days; or

20 (b) If such juvenile does not have a permit or license  
21 issued under the Motor Vehicle Operator's License Act, prohibit  
22 such juvenile from obtaining any permit or any license pursuant to  
23 the act for which such juvenile would otherwise be eligible until  
24 thirty days after the date of such order.

25 (2) A copy of an abstract of the juvenile court's

1 adjudication shall be transmitted to the Director of Motor Vehicles  
2 pursuant to sections 60-497.01 to 60-497.04 if a license or permit  
3 is impounded or a juvenile is prohibited from obtaining a license  
4 or permit under subsection (1) of this section. If a juvenile  
5 whose operator's license or permit has been impounded by a juvenile  
6 court operates a motor vehicle during any period that he or she  
7 is subject to the court order not to operate any motor vehicle or  
8 after a period of impoundment but before return of the license or  
9 permit, such violation shall be handled in the juvenile court and  
10 not as a violation of section 60-4,108.

11 (3) When a juvenile is adjudged to be a juvenile  
12 described in subdivision (3)(a) of section 43-247 for excessive  
13 absenteeism from school, the juvenile court may issue the parents  
14 or guardians of such juvenile a fine not to exceed five hundred  
15 dollars for each offense or order such parents or guardians  
16 to complete specified hours of community service. For community  
17 service ordered under this subsection, the juvenile court may  
18 require that all or part of the service be performed for a public  
19 school district or nonpublic school if the court finds that service  
20 in the school is appropriate under the circumstances.

21 Sec. 25. Section 43-2,106.01, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23 43-2,106.01 (1) Any final order or judgment entered by a  
24 juvenile court may be appealed to the Court of Appeals in the same  
25 manner as an appeal from district court to the Court of Appeals.

1 The appellate court shall conduct its review ~~within the same time~~  
2 ~~and in the same manner prescribed by law for review of an order~~  
3 ~~or judgment of the district court,~~ except as provided in sections  
4 ~~43-287.01 to 43-287.06 and except that when appeal is taken from~~  
5 ~~a finding by the juvenile court terminating parental rights,~~ the  
6 cause shall be advanced for argument before the appellate court  
7 and the appellate court shall, in order to expedite the preferred  
8 disposition of the case and the juvenile, in an expedited manner  
9 and shall render the judgment and write its opinion, if any, as  
10 speedily as possible.

11 (2) An appeal may be taken by:

12 (a) The juvenile;

13 (b) The guardian ad litem;

14 (c) The juvenile's parent, custodian, or guardian. For  
15 purposes of this subdivision, custodian or guardian shall include,  
16 but not be limited to, the Department of Health and Human Services,  
17 an association, or an individual to whose care the juvenile has  
18 been awarded pursuant to the Nebraska Juvenile Code; or

19 (d) The county attorney or petitioner, except that in  
20 any case determining delinquency issues in which the juvenile has  
21 been placed legally in jeopardy, an appeal of such issues may only  
22 be taken by exception proceedings pursuant to sections 29-2317 to  
23 29-2319.

24 (3) In all appeals from the county court sitting as  
25 a juvenile court, the judgment of the appellate court shall

1 be certified without cost to the juvenile court for further  
2 proceedings consistent with the determination of the appellate  
3 court.

4           Sec. 26. Sections 26 to 30 of this act apply only  
5 to persons who were under the age of eighteen years when the  
6 offense took place and the county attorney or city attorney offered  
7 juvenile pretrial diversion or mediation to the juvenile under  
8 the Nebraska Juvenile Code or filed a juvenile court petition  
9 describing the juvenile as a juvenile described in subdivision (1),  
10 (2), (3)(b), or (4) of section 43-247 or the county attorney or  
11 city attorney filed a criminal complaint in county court against  
12 such juvenile for a misdemeanor or infraction, other than for a  
13 traffic offense that may be waived, under the laws of this state or  
14 a city or village ordinance.

15           Sec. 27. For a juvenile described in section 26 of this  
16 act, the county attorney or city attorney shall, in addition to the  
17 filings or actions described in such section, provide the juvenile  
18 with written notice that:

19           (1) States in plain language that the juvenile may  
20 petition the court to seal the record when the juvenile has  
21 satisfactorily completed the diversion, mediation, probation,  
22 supervision, or other treatment or rehabilitation program provided  
23 to the juvenile under the Nebraska Juvenile Code or has  
24 satisfactorily completed the diversion or sentence ordered by a  
25 county court; and

1           (2) Explains in plain language what sealing the record  
2 means.

3           Sec. 28. (1) Notwithstanding subsection (2) of this  
4 section, if the juvenile was taken into custody or arrested but  
5 no juvenile petition or criminal complaint was filed against the  
6 juvenile with respect to the arrest or custody, the county attorney  
7 or city attorney shall notify the appropriate public office or  
8 agency responsible for the arrest or custody that no criminal  
9 charge or juvenile court petition was filed.

10           (2) If the county attorney or city attorney has offered  
11 and the juvenile has agreed to pretrial diversion or mediation,  
12 the county attorney or city attorney shall notify the appropriate  
13 public office or agency responsible for the arrest or custody that  
14 the juvenile has satisfactorily completed the resulting diversion  
15 or mediation.

16           (3) Upon receiving notice under subsection (1) or (2)  
17 of this section, the public office or agency shall immediately  
18 seal all original records housed at that public office or agency  
19 pertaining to the citation, arrest, record of custody, complaint,  
20 disposition, diversion, or mediation.

21           (4) If a juvenile described in section 26 of this act has  
22 satisfactorily completed such juvenile's probation, supervision,  
23 or other treatment or rehabilitation program provided under  
24 the Nebraska Juvenile Code or has satisfactorily completed such  
25 juvenile's diversion or sentence in county court and the juvenile

1 has attained at least the age of seventeen years, the court  
2 shall initiate proceedings to seal the record pertaining to such  
3 disposition, adjudication, or diversion or sentence of the county  
4 court.

5 (5) At any time after a juvenile described in section 26  
6 of this act has satisfactorily completed probation, supervision,  
7 or other treatment or rehabilitation program under the code or has  
8 satisfactorily completed diversion or sentence of the county court,  
9 the court may, upon the motion of the juvenile or the court's own  
10 motion, initiate proceedings to seal the record pertaining to such  
11 disposition, dismissal following pretrial diversion under section  
12 43-260.04, or disposition under section 43-286 or any county court  
13 records pertaining to such county court diversion or sentence.

14 Sec. 29. (1) The county attorney or city attorney  
15 involved in the case that is the subject of the proceeding to  
16 seal the record shall be promptly notified of the proceedings, and  
17 the Department of Health and Human Services shall also be promptly  
18 notified of the proceedings if the juvenile whose record is the  
19 subject of the proceeding to seal the record is a ward of the state  
20 or if the department was a party in the case.

21 (2) A party notified under subsection (1) of this section  
22 may file a response with the court within thirty days after  
23 receiving such notice.

24 (3) If a party notified under subsection (1) of this  
25 section does not file a response with the court or files a response

1 that indicates there is no objection to the sealing of the record,  
2 the court may order the record of the juvenile under consideration  
3 be sealed without conducting a hearing on the motion. If the court  
4 decides in its discretion to conduct a hearing on the motion, the  
5 court shall conduct the hearing within thirty days after making  
6 that decision and shall give notice, by regular mail, of the date,  
7 time, and location of the hearing to the parties receiving notice  
8 under subsection (1) of this section and to the juvenile who is the  
9 subject of the record under consideration.

10 (4) If a party receiving notice under subsection (1) of  
11 this section files a response with the court objecting to the  
12 sealing of the record, the court shall conduct a hearing on the  
13 motion within thirty days after the court receives the response.  
14 The court shall give notice, by regular mail, of the date, time,  
15 and location of the hearing to the parties receiving notice under  
16 subsection (1) of this section and to the juvenile who is the  
17 subject of the record under consideration.

18 (5) After conducting a hearing in accordance with this  
19 section, the court may order the record of the juvenile that is the  
20 subject of the motion to be sealed if it finds that the juvenile  
21 has been rehabilitated to a satisfactory degree. In determining  
22 whether the juvenile has been rehabilitated to a satisfactory  
23 degree, the court may consider all of the following:

24 (a) The age of the juvenile;

25 (b) The nature of the offense and the role of the

1 juvenile in the offense;

2 (c) The behavior of the juvenile after the adjudication  
3 and the juvenile's response to treatment and rehabilitation  
4 programs;

5 (d) The education and employment history of the juvenile;  
6 and

7 (e) Any other circumstances that may relate to the  
8 rehabilitation of the juvenile who is the subject of the record  
9 under consideration.

10 (6) If, after conducting the hearing in accordance with  
11 this section, the juvenile is not found to be satisfactorily  
12 rehabilitated such that the record is not ordered to be sealed, a  
13 juvenile who is a person described in section 26 of this act may  
14 not move the court to seal the record for a period of one year,  
15 unless waived by the court.

16 (7) The juvenile court or county court shall provide  
17 verbal notice to a juvenile whose record is sealed, if that  
18 juvenile is present in the court at the time the court issues a  
19 sealing order, and explain what sealing a record means.

20 (8) The juvenile court or county court shall provide  
21 written notice to a juvenile whose record is sealed under this  
22 section by regular mail to the juvenile's last-known address, if  
23 that juvenile is not present in the court at the time the court  
24 issues a sealing order, that explains what sealing a record means.

25 Sec. 30. (1) If the court orders the records of a

1 juvenile sealed pursuant to section 29 of this act, the juvenile  
2 who is the subject of the order properly may, and the court, county  
3 attorneys, city attorneys, and institutions, persons, or agencies  
4 shall, reply that no record exists with respect to the juvenile  
5 upon any public inquiry in the matter, and the court shall do all  
6 of the following:

7 (a) Order that any information or other data concerning  
8 any proceedings relating to the arrest, taking into custody,  
9 petition, complaint, indictment, information, trial, hearing,  
10 adjudication, correctional supervision, dismissal, or disposition  
11 be deemed never to have occurred; and

12 (b) Send notice of the order to seal the record to  
13 the Nebraska Commission on Law Enforcement and Criminal Justice  
14 and, if the record includes impoundment or prohibition to obtain  
15 a license or permit pursuant to section 24 of this act, to the  
16 Department of Motor Vehicles and to any law enforcement agencies  
17 and county attorneys or city attorneys and institutions, persons,  
18 or agencies, including treatment providers, therapists, or other  
19 service providers, referenced in the court record and order that  
20 all original records of the case be sealed.

21 (2) Except as provided in subsection (3) of this section,  
22 an order to seal the record applies to every public office or  
23 agency that has a record relating to the case, regardless of  
24 whether it receives notice of the hearing on the sealing of the  
25 record or a copy of the order. Upon the written request of a person

1 whose record has been sealed and the presentation of a copy of such  
2 order, a public office or agency shall seal all original records  
3 relating to the case.

4 (3) A sealed record is still accessible to law  
5 enforcement officers, county attorneys, city attorneys, and the  
6 sentencing judge in the investigation of crimes and in the  
7 prosecution and sentencing of criminal defendants. Inspection of  
8 records that have been ordered sealed under section 29 of this act  
9 may be made only by the following persons or for the following  
10 purposes:

11 (a) By the court or by any person allowed to inspect such  
12 records by an order of the court for good cause shown;

13 (b) By the Nebraska Probation System for purposes of  
14 juvenile intake services, for presentence and other probation  
15 investigations, and for the direct supervision of persons placed on  
16 probation;

17 (c) By the Department of Health and Human Services for  
18 purposes of juvenile intake services, the preparation of case plans  
19 and reports, the preparation of evaluations, or the supervision and  
20 protection of persons placed with the department or for licensing  
21 or certification purposes under sections 71-1901 to 71-1906.01 or  
22 the Child Care Licensing Act;

23 (d) Upon application, by the juvenile who is the subject  
24 of the sealed record and by the person that is named in that  
25 application;

1           (e) At the request of a party in a civil action that is  
2 based on a case the record for which is the subject of a sealing  
3 order issued under section 29 of this act, as needed for the civil  
4 action. The party also may copy the record as needed for the civil  
5 action. The sealed record shall be used solely in the civil action  
6 and is otherwise confidential and subject to this section; or

7           (f) By persons engaged in bona fide research, with  
8 the permission of the court, only if the research results  
9 in no disclosure of a juvenile's identity and protects the  
10 confidentiality of the record.

11           (4) No person shall knowingly release, disseminate, or  
12 make available, for any purpose involving employment, bonding,  
13 licensing, or education, to any person or to any department,  
14 agency, or other instrumentality of the state or of any of  
15 its political subdivisions, any information or other data  
16 concerning any arrest, taking into custody, petition, complaint,  
17 indictment, information, trial, hearing, adjudication, correctional  
18 supervision, dismissal, or disposition, the record of which has  
19 been sealed pursuant to section 29 of this act and the release,  
20 dissemination, or making available of which is not expressly  
21 permitted by this section or court order. Nothing in this section  
22 shall prohibit the Department of Health and Human Services from  
23 releasing, disseminating, or making available information from  
24 sealed records in the performance of its duties with respect to the  
25 supervision and protection of persons served by the department. Any

1 person who violates this section may be held in contempt of court.

2 (5) In any application for employment, license, or other  
3 right or privilege, any appearance as a witness, or any other  
4 inquiry, a person cannot be questioned with respect to any arrest  
5 or taking into custody for which the record is sealed. If an  
6 inquiry is made in violation of this subsection, the person may  
7 respond as if the sealed arrest or taking into custody did not  
8 occur, and the person is not subject to any adverse action because  
9 of the arrest or taking into custody or the response. Applications  
10 for employment shall contain specific language that states that the  
11 applicant is not obligated to disclose a sealed juvenile record  
12 or sentence. Employers shall not ask if an applicant has had  
13 a juvenile record sealed. The Department of Labor shall develop  
14 a link on the department's web site to inform employers that  
15 employers cannot ask if an applicant had a juvenile record sealed  
16 and that an application for employment shall contain specific  
17 language that states that the applicant is not obligated to  
18 disclose a sealed juvenile record of arrest, custody, complaint,  
19 disposition, diversion, adjudication, or sentence.

20 Sec. 31. Section 43-2,129, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 43-2,129 Sections 43-245 to 43-2,129 and sections 10, 11,  
23 24, 26, 27, 28, 29, and 30 of this act shall be known and may be  
24 cited as the Nebraska Juvenile Code.

25 Sec. 32. Section 43-415, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           43-415 A juvenile placed for evaluation with the Office  
3 of Juvenile Services shall be returned to the court upon the  
4 completion of the evaluation or at the end of thirty days,  
5 whichever comes first. When the office finds that an extension of  
6 the thirty-day period is necessary to complete the evaluation, the  
7 court may order an extension not to exceed an additional thirty  
8 days. The court shall hold a hearing within ten days after the  
9 evaluation is completed and returned to the court by the office.

10           Sec. 33. Section 43-2404.02, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12           43-2404.02 (1) There is created a separate and distinct  
13 budgetary program within the commission to be known as the County  
14 Juvenile Services Aid Program. Funding acquired from participation  
15 in the federal act, state General Funds, and funding acquired  
16 from other sources which may be used for purposes consistent with  
17 the Juvenile Services Act and the federal act shall be used to  
18 aid counties in the establishment and provision of community-based  
19 services for accused and adjudicated juvenile offenders and to  
20 increase capacity for community-based services to juveniles.

21           (2) The annual General Fund appropriation to the County  
22 Juvenile Services Aid Program shall be apportioned to the counties  
23 as aid in accordance with a formula established in rules and  
24 regulations adopted and promulgated by the commission. The formula  
25 shall be based on the total number of residents per county who

1 are twelve years of age through eighteen years of age and other  
2 relevant factors as determined by the commission. The commission  
3 may require a local match of up to forty percent from counties  
4 receiving aid under such program. Any local expenditures for  
5 community-based programs for juveniles may be applied toward such  
6 match requirement.

7 (3) Funds provided to counties under the County Juvenile  
8 Services Aid Program shall be used exclusively to assist counties  
9 in implementation and operation of programs or services identified  
10 in their comprehensive juvenile services plan, including, but not  
11 limited to, programs for assessment and evaluation, prevention of  
12 delinquent behavior, diversion, shelter care, intensive juvenile  
13 probation services, restitution, family support services, and  
14 family group conferencing. In distributing funds provided under  
15 the County Juvenile Services Aid Program, counties shall prioritize  
16 programs and services that will reduce the juvenile detention  
17 population. No funds appropriated or distributed under the County  
18 Juvenile Services Aid Program shall be used for construction of  
19 secure detention facilities, secure youth treatment facilities,  
20 or secure youth confinement facilities. Aid received under this  
21 section shall not be used for capital construction or the lease or  
22 acquisition of facilities and shall not be used to replace existing  
23 funding for programs or services. Any funds not distributed to  
24 counties under this subsection shall be retained by the commission  
25 to be distributed on a competitive basis under the County Juvenile

1 Services Aid Program.

2 (4) Any county receiving funding under the County  
3 Juvenile Services Aid Program shall file an annual report as  
4 required by rules and regulations adopted and promulgated by the  
5 commission. The report shall include, but not be limited to,  
6 information on the total number of juveniles served, the units of  
7 service provided, a listing of the county's annual juvenile justice  
8 budgeted and actual expenditures, and a listing of expenditures for  
9 detention, residential treatment, and nonresidential treatment.

10 (5) The commission shall report annually to the Governor  
11 and the Legislature on the distribution and use of funds  
12 appropriated under the County Juvenile Services Aid Program.

13 (6) The commission shall adopt and promulgate rules and  
14 regulations to implement this section.

15 Sec. 34. Section 60-4,108, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 60-4,108 (1) It shall be unlawful for any person to  
18 operate a motor vehicle during any period that he or she is subject  
19 to a court order not to operate any motor vehicle for any purpose  
20 or during any period that his or her operator's license has been  
21 revoked or impounded pursuant to conviction or convictions for  
22 violation of any law or laws of this state, by an order of any  
23 court, or by an administrative order of the director. Except as  
24 otherwise provided by subsection (3) of this section or by other  
25 law, any person so offending shall (a) for a first such offense, be

1 guilty of a Class II misdemeanor, and the court shall, as a part  
2 of the judgment of conviction, order such person not to operate any  
3 motor vehicle for any purpose for a period of one year from the  
4 date ordered by the court and also order the operator's license  
5 of such person to be revoked for a like period and (b) for each  
6 subsequent such offense, be guilty of a Class II misdemeanor, and  
7 the court shall, as a part of the judgment of conviction, order  
8 such person not to operate any motor vehicle for any purpose for  
9 a period of two years from the date ordered by the court and also  
10 order the operator's license of such person to be revoked for a  
11 like period. Such orders of the court shall be administered upon  
12 sentencing, upon final judgment of any appeal or review, or upon  
13 the date that any probation is revoked, whichever is later.

14 (2) It shall be unlawful for any person to operate a  
15 motor vehicle (a) during any period that his or her operator's  
16 license has been suspended, (b) after a period of revocation  
17 but before issuance of a new license, or (c) after a period of  
18 impoundment but before the return of the license. ~~Any~~ Except as  
19 provided in subsection (3) of this section, any person so offending  
20 shall be guilty of a Class III misdemeanor, and the court may, as  
21 a part of the judgment of conviction, order such person not to  
22 operate any motor vehicle for any purpose for a period of one year  
23 from the date ordered by the court, except that if the person at  
24 the time of sentencing shows proof of reinstatement of his or her  
25 suspended operator's license, proof of issuance of a new license,

1 or proof of return of the impounded license, the person shall only  
2 be fined in an amount not to exceed one hundred dollars. If the  
3 court orders the person not to operate a motor vehicle for a period  
4 of one year from the date ordered by the court, the court shall  
5 also order the operator's license of such person to be revoked for  
6 a like period. Such orders of the court shall be administered upon  
7 sentencing, upon final judgment of any appeal or review, or upon  
8 the date that any probation is revoked, whichever is later.

9 (3) If a juvenile whose operator's license or permit  
10 has been impounded by a juvenile court operates a motor vehicle  
11 during any period that he or she is subject to the court order  
12 not to operate any motor vehicle or after a period of impoundment  
13 but before return of the license or permit, such violation shall  
14 be handled in the juvenile court and not as a violation of this  
15 section.

16 Sec. 35. Section 79-209, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 79-209 In all school districts in this state, any  
19 superintendent, principal, teacher, or member of the school board  
20 who knows of any violation of section 79-201 on the part of any  
21 child of school age, his or her parent, the person in actual or  
22 legal control of such child, or any other person shall within  
23 three days report such violation to the attendance officer of  
24 the school, who shall investigate the case. When of his or her  
25 personal knowledge, by report or complaint from any resident of the

1 district, or by report or complaint as provided in this section,  
2 the attendance officer believes that any child is unlawfully absent  
3 from school, the attendance officer shall immediately investigate.

4 All school districts shall have a written policy on  
5 excessive absenteeism developed in collaboration with the county  
6 attorney of the county in which the principal office of the school  
7 district is located. The policy shall state the number of absences  
8 or the hourly equivalent upon the occurrence of which the school  
9 shall render all services in its power to compel such child to  
10 attend some public, private, denominational, or parochial school,  
11 which the person having control of the child shall designate,  
12 in an attempt to ~~remediate the child's truant behavior.~~ address  
13 the problem of excessive absenteeism. The number of absences in  
14 the policy shall not exceed five days per quarter or the hourly  
15 equivalent. School districts may use excused and unexcused absences  
16 for purposes of the policy. Such services shall include, but need  
17 not be limited to:

18 (1) One or more meetings between a school attendance  
19 officer, school social worker or ~~other person~~ the school principal  
20 or a member of the school administrative staff designated by  
21 the school administration if such school does not have a school  
22 social worker, the child's parent or guardian, and the child, if  
23 necessary, to report and to attempt to solve the ~~truancy~~ problem,  
24 ~~unless the officer or worker has documented the refusal of the~~  
25 ~~parent or guardian to participate in such meetings,~~ of excessive

1 absenteeism;

2 (2) Educational counseling to determine whether  
3 curriculum changes, including, but not limited to, enrolling the  
4 child in an alternative education program that meets the specific  
5 educational and behavioral needs of the child, would help solve the  
6 ~~truancy~~ problem of excessive absenteeism;

7 (3) Educational evaluation, which may include a  
8 psychological evaluation, to assist in determining the specific  
9 condition, if any, contributing to the ~~truancy~~ problem of excessive  
10 absenteeism, supplemented by specific efforts by the school to help  
11 remedy any condition diagnosed; and

12 (4) Investigation of the ~~truancy~~ problem of excessive  
13 absenteeism by the school social worker, or if such school does  
14 not have a school social worker, by ~~another person~~ the school  
15 principal or a member of the school administrative staff designated  
16 by the school administration, to identify conditions which may be  
17 contributing to the ~~truancy~~ problem. If services for the child and  
18 his or her family are determined to be needed, the school social  
19 worker or ~~other person~~ the school principal or a member of the  
20 school administrative staff performing the investigation shall meet  
21 with the parent or guardian and the child to discuss any referral  
22 to appropriate community agencies for economic services, family  
23 or individual counseling, or other services required to remedy  
24 the conditions that are contributing to the ~~truancy~~ problem of  
25 excessive absenteeism.

1           If the child continues to be or becomes habitually  
2 truant, the attendance officer shall serve a written notice to  
3 the person violating section 79-201, warning him or her to comply  
4 with its provisions. If within one week after the time such notice  
5 is given such person is still violating the section, is absent  
6 more than twenty days per year or the hourly equivalent, the  
7 attendance officer shall file a report with the county attorney  
8 of the county in which such person resides. All school districts  
9 shall have a written policy describing notification of habitual  
10 truancy to the county attorney. The number of absences in the  
11 policy shall not exceed twenty days cumulative per year or the  
12 hourly equivalent. School districts may use excused and unexcused  
13 absences for purposes of the policy. The county attorney may  
14 file a complaint against such person a person violating section  
15 79-201 before the judge of the county court of the county in  
16 which such person resides charging such person with violation of  
17 section 79-201. If after such notice has been sent to any person  
18 violating such section such person again violates the same section,  
19 no written notice shall be required but a complaint may be filed  
20 at once, or may file a petition under the Nebraska Juvenile  
21 Code alleging the person violating section 79-201 is a juvenile  
22 described in subdivision (3)(a) or (3)(b) of section 43-247.  
23 Nothing in this section shall preclude a county attorney from  
24 being involved at any stage in the process to address excessive  
25 absenteeism.

1           Sec. 36. Section 79-527, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           79-527 (1) The superintendent or head administrator of a  
4 public school district or a nonpublic school system shall annually  
5 report to the Commissioner of Education in such detail and on  
6 such date as required by the commissioner the number of students  
7 who have dropped out of school, ~~or were for any reason suspended,~~  
8 ~~expelled, or excluded from school during the year.~~ School districts  
9 that are members of learning communities shall also provide the  
10 learning community coordinating council with a copy of the such  
11 report ~~to the commissioner~~ on or before the date the report is due  
12 to the commissioner. ~~Each learning community coordinating council~~  
13 ~~shall annually report to the commissioner in such detail and on~~  
14 ~~such date as required by the commissioner the number of students~~  
15 ~~who have dropped out of school or were for any reason suspended,~~  
16 ~~expelled, or excluded from school during the year for all of the~~  
17 ~~member school districts. The due date for reports from learning~~  
18 ~~communities shall be established by the commissioner to provide a~~  
19 ~~reasonable period of time for the learning community coordinating~~  
20 ~~councils to compile the information from the member school district~~  
21 ~~reports.~~

22           (2) The superintendent or head administrator of a public  
23 school district or a nonpublic school system shall report on a  
24 monthly basis to the Commissioner of Education as directed by the  
25 commissioner regarding the number of and reason for any long-term

1 suspension, expulsion, or excessive absenteeism of a student;  
2 referral of a student to the office of the county attorney for  
3 excessive absenteeism; or contacting of law enforcement officials,  
4 other than law enforcement officials employed by or contracted with  
5 by the school district as school resource officers, by the district  
6 or system relative to a student enrolled in the district or system.  
7 A school district that is a member of a learning community shall  
8 also provide the learning community coordinating council with a  
9 copy of such report on or before the date the report is due to the  
10 commissioner.

11           Sec. 37. (1) The Truancy Intervention Task Force is  
12 created. The task force shall consist of:

13           (a) The probation administrator or his or her designee;

14           (b) The Commissioner of Education or his or her designee;

15 and

16           (c) The chief executive officer of the Department of  
17 Health and Human Services or his or her designee.

18           (2) The task force shall study and evaluate the data  
19 contained in the reports required by subsection (2) of section  
20 79-527 and shall develop recommendations to reduce incidents of  
21 excessive absenteeism. The task force may contact a school district  
22 or a county attorney for additional information. The task force  
23 shall report to the Legislature on or before July 1, 2011, and each  
24 July 1 thereafter.

25           Sec. 38. The Revisor of Statutes shall assign section 37

1 of this act within Chapter 79, article 5.

2           Sec. 39. Original sections 24-313, 25-2701, 25-2728,  
3 28-416, 29-1816, 29-2258, 29-2269, 43-246, 43-248, 43-253, 43-254,  
4 43-254.01, 43-256, 43-258, 43-272.01, 43-278, 43-285, 43-2,106.01,  
5 43-2,129, 43-415, 43-2404.02, 60-4,108, 79-209, and 79-527, Reissue  
6 Revised Statutes of Nebraska, sections 43-245 and 43-250, Revised  
7 Statutes Supplement, 2009, and section 29-2262.07, Reissue Revised  
8 Statutes of Nebraska, as amended by section 15, Legislative Bill  
9 3, One Hundred First Legislature, First Special Session, 2009, are  
10 repealed.

11           Sec. 40. The following sections are outright repealed:  
12 Sections 43-287.01, 43-287.02, 43-287.03, 43-287.04, 43-287.05,  
13 43-287.06, 43-2,102, 43-2,103, 43-2,104, and 43-2,105, Reissue  
14 Revised Statutes of Nebraska.